

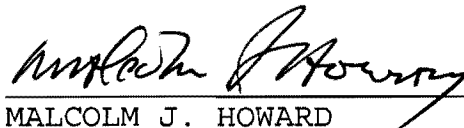
No. 4:03-CR-14-H
No. 4:12-CV-156-H

Respondent .

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For the reasons stated in the government's response to petitioner's motion, the court GRANTS petitioner's Simmons claim and DISMISSES petitioner's remaining claims for failure to state a claim upon which relief may be granted. The court VACATES its judgment, entered October 14, 2003 and amended on March 23, 2006. This matter is SCHEDULED for resentencing at the court's October 9, 2012, criminal term. The United States Probation Office is DIRECTED to provide the parties and the court with a resentencing memorandum.

This 6th day of September 2012.



MALCOLM J. HOWARD

Senior United States District Judge

At Greenville, NC
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